

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 234

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO TAXATION; ELIMINATING NONTAXABLE TRANSACTION
CERTIFICATE REISSUANCE REQUIREMENTS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-9-43 NMSA 1978 (being Laws 1966,
Chapter 47, Section 13, as amended) is amended to read:

"7-9-43. NONTAXABLE TRANSACTION CERTIFICATES AND OTHER
EVIDENCE REQUIRED TO ENTITLE PERSONS TO DEDUCTIONS

~~[RENEWAL]~~. . .

A. All nontaxable transaction certificates of the
appropriate series executed by buyers or lessees should be in
the possession of the seller or lessor for nontaxable
transactions at the time the return is due for receipts from
the transactions. If the seller or lessor is not in possession
of the required nontaxable transaction certificates within

underscoring material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 sixty days from the date that the notice requiring possession
2 of these nontaxable transaction certificates is given the
3 seller or lessor by the department, deductions claimed by the
4 seller or lessor that require delivery of these nontaxable
5 transaction certificates shall be disallowed. The nontaxable
6 transaction certificates shall contain the information and be
7 in a form prescribed by the department. The department by
8 regulation may deem to be nontaxable transaction certificates
9 documents issued by other states or the multistate tax
10 commission to taxpayers not required to be registered in New
11 Mexico. Only buyers or lessees who have a registration number
12 or have applied for a registration number and have not been
13 refused one under Subsection C of Section 7-1-12 NMSA 1978
14 shall execute nontaxable transaction certificates issued by the
15 department. If the seller or lessor has been given an
16 identification number for tax purposes by the department, the
17 seller or lessor shall disclose that identification number to
18 the buyer or lessee prior to or upon acceptance of a nontaxable
19 transaction certificate. When the seller or lessor accepts a
20 nontaxable transaction certificate within the required time and
21 in good faith that the buyer or lessee will employ the property
22 or service transferred in a nontaxable manner, the properly
23 executed nontaxable transaction certificate shall be conclusive
24 evidence, and the only material evidence, that the proceeds
25 from the transaction are deductible from the seller's or

. 152900. 1

underscored material = new
[bracketed material] = delete

1 lessor's gross receipts.

2 B. Properly executed documents required to support
3 the deductions provided in Sections 7-9-57, 7-9-58 and 7-9-74
4 NMSA 1978 should be in the possession of the seller at the time
5 the return is due for receipts from the transactions. If the
6 seller is not in possession of these documents within sixty
7 days from the date that the notice requiring possession of
8 these documents is given to the seller by the department,
9 deductions claimed by the seller or lessor that require
10 delivery of these documents shall be disallowed. These
11 documents shall contain the information and be in a form
12 prescribed by the department. When the seller accepts these
13 documents within the required time and in good faith that the
14 buyer will employ the property or service transferred in a
15 nontaxable manner, the properly executed documents shall be
16 conclusive evidence, and the only material evidence, that the
17 proceeds from the transaction are deductible from the seller's
18 gross receipts.

19 C. Notice, as used in this section, is sufficient
20 if the notice is mailed or served as provided in Subsection A
21 of Section 7-1-9 NMSA 1978. Notice by the department under
22 this section shall not be given prior to the commencement of an
23 audit of the seller required to be in possession of the
24 documents.

25 [~~D. On January 1, 2005, every nontaxable~~

. 152900. 1

underscored material = new
[bracketed material] = delete

1 ~~transaction certificate, except for nontaxable transaction~~
2 ~~certificates of the series applicable to the twelve year period~~
3 ~~beginning January 1, 2005 and issued by the department prior to~~
4 ~~that date, is void with respect to transactions after December~~
5 ~~31, 2004. The department shall issue separate series of~~
6 ~~nontaxable transaction certificates for the twelve year period~~
7 ~~beginning January 1, 2005 and for each twelve year period~~
8 ~~beginning on January 1 of every twelfth year succeeding~~
9 ~~calendar year 2005. A series of nontaxable transaction~~
10 ~~certificates issued by the department for any twelve year~~
11 ~~period may be executed by buyers or lessees for transactions~~
12 ~~occurring within or prior to that twelve year period but is not~~
13 ~~valid for transactions occurring after that twelve year period,~~
14 ~~except the nontaxable transaction certificates issued by the~~
15 ~~department for the period January 1, 1992 to December 31, 2001~~
16 ~~may be executed by buyers or lessees for transactions occurring~~
17 ~~prior to December 31, 2004. For administrative convenience,~~
18 ~~the department may accept and approve qualifying applications~~
19 ~~for the privilege of executing nontaxable transaction~~
20 ~~certificates and pre-issue certificates of any series within~~
21 ~~the six month period immediately preceding the beginning of the~~
22 ~~twelve year period to which the series of nontaxable~~
23 ~~transaction certificates applies.~~

24 E.] D. To exercise the privilege of executing
25 appropriate nontaxable transaction certificates, a buyer or

. 152900. 1

underscoring material = new
~~[bracketed material] = delete~~

1 lessee shall apply to the department for permission to execute
2 nontaxable transaction certificates, except with respect to
3 documents issued by other states or the multistate tax
4 commission that the department has deemed to be nontaxable
5 transaction certificates. If a person is shown on the
6 department's records to be a delinquent taxpayer or to have a
7 non-filed period, the department may refuse to approve the
8 application of the person until the person has filed returns
9 for all non-filed periods and is no longer shown to be a
10 delinquent taxpayer, and the taxpayer may protest that refusal
11 pursuant to Section 7-1-24 NMSA 1978. Upon the department's
12 approval of the application, the buyer or lessee may request
13 appropriate nontaxable transaction certificates for execution
14 by the buyer or lessee; provided that if a person is shown on
15 the department's records to be a delinquent taxpayer or to have
16 a non-filed period, the department may refuse to issue
17 nontaxable transaction certificates to the person until the
18 person has filed returns for all non-filed periods and is no
19 longer shown to be a delinquent taxpayer. The taxpayer may
20 protest that refusal pursuant to Section 7-1-24 NMSA 1978. The
21 department may require a buyer or lessee requesting and
22 receiving nontaxable transaction certificates for execution by
23 that buyer or lessee to report to the department the names,
24 addresses and identification numbers assigned by the department
25 of the sellers and lessors to whom they have delivered

. 152900. 1

1 nontaxable transaction certificates. The department may
2 require a seller or lessor engaged in business in New Mexico to
3 report to the department the names, addresses and federal
4 employer identification numbers or state identification numbers
5 for tax purposes issued by the department of the buyers or
6 lessees from whom the seller or lessor has accepted nontaxable
7 transaction certificates. "

8 Section 2. EMERGENCY.--It is necessary for the public
9 peace, health and safety that this act take effect immediately.

10 - 6 -

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25